

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

SARAH CLINE

PLAINTIFF

V.

CIVIL ACTION NO. 4:23CV71-SA-JMV

**WALMART STORES, INC.;
WALMART STORES EAST, LP;
WALMART SUPERCENTER #716;
JOHN DOE(S) 1-10; AND
JOHN DOE COMPANY(IES) 1-10**

DEFENDANTS

MOTION TO DISMISS

NOW COME Defendants Walmart Stores, Inc. and Walmart Supercenter #716 (misidentified as Defendants in Plaintiff's Complaint), and move this Court for an Order of Dismissal with Prejudice as shown below.

1.

Defendants Walmart Stores, Inc. and Walmart Supercenter #716 have no responsibility or liability for the allegations of Plaintiff in her Complaint. Defendants Walmart Stores, Inc. and Walmart Supercenter #716 have no involvement or control over the premises where the slip and fall incident took place and which allegedly resulted in damages to Plaintiff. In the interest of initial disclosure, the legal entity which operated the subject department store where Plaintiff alleged she slipped and fell is Wal-Mart Stores East, L.P., who is already a Defendant.

2.

This Court lacks subject matter and personal jurisdiction over Defendant Walmart Stores, Inc. and Walmart Supercenter #716.

3.

This matter should be dismissed as to Defendant Walmart, Inc. and Walmart Supercenter #716 because of incomplete and inaccurate issuance of legal process, as well as Plaintiff's failure to properly serve legal process on these Defendants.

4.

Plaintiff's Complaint also fails to state a claim upon which relief may be granted against these Defendants, and they request that this action be dismissed pursuant to Rule 12(b)(6) of the *Federal Rules of Civil Procedure*.

WHEREFORE, PREMISES CONSIDERED, Defendants Walmart Stores, Inc. and Walmart Supercenter #716 (misidentified as Defendants in Plaintiff's Complaint) request that they be dismissed, with prejudice, from this action as shown above.

THIS, the 25th day of April, 2023.

**WALMART STORES, INC. AND
WALMART SUPERCENTER #716
(misidentified as parties in Plaintiff's Complaint)**

BY: /s/ Britt Virden
BRITT VIRDEN, MBN 10022
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CERTIFICATE OF SERVICE

I hereby certify that on **April 25, 2023**, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the parties set forth in the Electronic Mail Notice List as of the date hereof, including the following:

VIA E-MAIL: knewson@lcall.org

Kira D. Newson, Esq.

Schwartz & Associates, P.A.

P. O. Box 3949

Jackson, MS 39207-3949

Signed, this, the 25th day of April, 2023.

/s/ Britt Virden

BRITT VIRDEN